

LEGISLATIVE RESEARCH COMMISSION

AGING



REPORT TO THE
1983 GENERAL ASSEMBLY
OF NORTH CAROLINA

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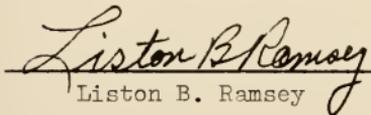
January 12, 1983

TO THE MEMBERS OF THE 1983 GENERAL ASSEMBLY

The Legislative Research Commission herewith reports to the 1983 General Assembly on the matter of the problems of aging. The report is made pursuant to Resolution 61 of the 1981 General Assembly.

This report was prepared by the Legislative Research Commission's Committee on Aging and is transmitted by the Legislative Research Commission for your consideration.

Respectfully submitted,


Liston B. Ramsey


W. Craig Lawing

CoChairmen

LEGISLATIVE RESEARCH COMMISSION

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INTRODUCTION

The Legislative Research Commission, created by Article 6B of General Statutes 120, is authorized pursuant to the direction of the General Assembly "to make or cause to be made such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" and "to report to the General Assembly the results of the studies made," which reports "may be accompanied by the recommendations". G.S. 120-30.17. The Commission is chaired by the Speaker of the House and the President Pro Tempore of the Senate, and consists of five Representatives and five Senators, who are appointed respectively by the Cochairmen. G.S. 120-10(a). See Appendix A for a list of the Commission members.

Pursuant to G.S. 120-30.10(b) and (c), the Commission Cochairmen appointed study committees consisting of legislators and public members to conduct the studies. Each member of the Legislative Research Commission was delegated the responsibility of everseeing one group of studies and causing the findings and recommendations of the various committees to be reported to the Commission. In addition, one Senator and one Representative from each

study committee were designsted Cochairmen.

By House Joint Resolution 1292 (1981 Session Laws, Resolution 61), the Legislative Research Commission was authorized to continue its study of the problems of aging. In order to accomplish these tasks, Senator Russell G. Walker, as a member of the Legislative Research Commission was appointed to coordinate and oversee the Study on the Problems of Aging. Senator Rachel G. Gray and Representative Gus N. Economos were appointed to Cochair the Committee. The other members appointed were Senators Robert B. Jordan III and James D. Speed; Representatives Betty Dorton Thomas and Sam L. Beam; and public members Dr. Monroe Gilmour and Mrs. Helen Jacobs. Public member Mr. Claude H. Farrell was replaced because of death by Dr. Elizabeth Welch. The Legislative Services Office provided staff assistance to the Committee for this study.

The minutes of the Committee meetings reflect the statements and discussions of each meeting. All of this information is included in the Committee files.

BACKGROUND

This last quarter of the 20th Century can best be described by its shifting age structure. Not only will one out of every eight persons be 65 years or older by the close of the century, but the greatest increase will be among the very oldest citizens.

Between 1960 and 1970 the number of persons 75 years and older increased at nearly three times the rate of those in the 65-75 age group. During the 1970's the population between 40 and 64 increased just under 3 percent, while those 85 and over increased by 61 percent.

By the end of the century people under 65 years will have increased by 17 percent while those 65 to 75 will increase by 14 percent. The greatest increase, 53 percent, will occur among those 75 and older which has important implications since this group is most vulnerable to physical, mental and financial crises requiring the care of their family and society.

This is the century not only of old age, but of multi-generational families, often composed of several generations of near elderly, elderly and frail elderly women. About half of all those over 65 who have living children are members of a four generation family.

While numbers of elderly are increasing, younger couples are having fewer children, and often putting off childbirth until later in life. This declining fertility restricts the availability of younger kin to whom the older generation can turn.

This nation's elderly hold up a distorted mirror to our society. The distortion is imposed by two elements: the vital supports which many of the elderly lose merely by the fact of having become aged; and our ignorance of what aging is-- an ignorance made the more profound by our societal resistance

to acknowledging the fact of aging and preparing adequately for it. The normal supports available to much of our population, but frequently unavailable to the aged include:

- jobs and basic economic security
- quality health care (physical and mental)
- transportation
- a full range of legal and other professional services
- decent housing
- protection from crime

Such supports are by and large not available to the aged. Despite inadequate income and savings, many have no jobs or at best only part-time work, and no ready surrogate for the loss of self-worth and esteem that accompanies an end to employment. The aged learn that the medical system that fits their needs in middle age is now out of phase, not structured--in manpower, institutional resources, payment mechanisms, or motivation-- to deal with the chronic impairments and long-term illnesses that may now afflict them.

There is not sufficient psychiatric help or understanding to aid in coping with the wrenching changes and strains of old age--bereavement, loneliness, financial and social insecurities. Many aged persons find their financial resources meager and dwindling: most elderly couples and individuals have less than \$5,000 in assets and many less than \$1,000. The aged often learn that they can no longer easily get where they need to go, that their housing is inadequate, their pensions too little.

The effect on many of the elderly is to blunt the inherent values and joys of old age--a time to reflect on one's life, synthesizing experiences, passing on learned wisdom and philosophies to others, preparing for and understanding the coming of death. Rather than old age being a time to savor the final stages of human development, it often becomes a struggle to survive in what is perceived by many aged as an

increasingly alien society. Perhaps most tragically, old age is lacking in a life-long sense of accomplishment and self-worth.

We do not know what aging is. Consequently, we cannot crisply separate the changes--social, behavioral, biological--intrinsic to aging, from those changes imposed by medical history, cultural and ethnic settings, the manner of a person's life, and other externals. Not knowing what aging really is or means, we generally rely on an arbitrary chronological division between middle-age and old age, usually set at 60 years. Commonly, a person passing this limit is conditioned to uniform set of beliefs about aging and the aged: intellectual decline slipping into senility; inevitably, entry into an institution; and increased vulnerability to certain diseases and disorders--such as diabetes, atherosclerosis, arthritis, blindness, and dementia.

But these are pieces of a myth. Reaction times do slow with age, but most of the aged fully retain until they are very old, and often until their death, their ability to reason, their memory, their wit. The elderly sometimes seem lonely and withdrawn, but that may be the result of society withdrawing from them. The elderly commonly have decreased glucose tolerance, decreased creatinine clearances, and higher blood pressures, but not all are diabetic, have kidney disease, or are hypertensive. We associate the elderly--particularly the very old--with institutions, but in fact, at any moment in

time only about 6% are there; the other 94% usually prefer to stay out, and generally can care quite well for themselves despite the fact that many suffer some chronic illness or impairment.

In current political climate, inflation, charges of oversized government and over-taxation are the predominant issues. One of the results of these concerns is questioning the validity of many services targeted at older Americans.

Many persons have begun to consider the Legislative Research Commission's Committee on the Problems of Aging as a major forum for those concerned with aging in North Carolina. This Committee has been devoted entirely to aging, its problems, goals and aspirations. This process began in 1977 with the establishment of a House Committee on Aging. Out of this came the Legislative Research Commission's Committee on the Problems of Aging which began to meet between the two sessions of 1977 General Assembly.

Therefore, much initial work and background has already been reported. For those interested, this information can be found in the Legislative Research Commission Report to the 1977 General Assembly, Second Session 1978 on Aging; The Legislative Research Commission Report to the 1979 General Assembly on Aging; The Legislative Research Commission Report to the 1979 General Assembly, Second Session 1980 on Aging; The Legislative Research Commission Report to the 1981 General Assembly on Aging; and the Legislative Research Commission Report to the 1981 General Assembly, 1982 Session. This report will detail

only the information gathered by the Committee since the 1981 report.

COMMITTEE PROCEEDINGS

The Legislative Research Commission's Committee on the Problems of Aging held six meetings during the course of its deliberations and heard from numerous groups and persons interested in aging. Since the Committee is devoted entirely to considering the problems, goals and aspirations of senior citizens, many people have taken a great interest in the proceedings. They were permitted and encouraged to appear freely before the Committee.

The Committee looked at a wide range of issues such as:

- (1) STATE PARTICIPATION IN THE WHITE HOUSE CONFERENCE ON AGING. The Committee has been very interested in this Conference because it was designed to call national attention to the growing number of older Americans and the problems this segment of the population is still facing. It started with a whole series of local community forums being held in the towns and counties throughout the country. At the state level, 82 local forums were held in 56 counties in the State with over 2,500 persons attending these

community forums. Recommendations from the local forums were organized and discussed at the White House Conference on Aging. Recommendations from the State Conference were taken by our State delegates to the White House Conference. The Committee has considered many of the recommendations from the White House Conference.

- (2) STATE PROGRAMS FOR THE ELDERLY. The North Carolina Division of Aging now administers over \$18 million and includes such programs as:
- (a) Social Service areas and multi-purpose senior centers
 - (b) Nutrition Program
 - (c) Training Program
 - (d) Senior Community Service and Employment Program
 - (e) Advocacy Assistance Program
 - (f) Home-maker, Home-health Aid Program
 - (g) Senior Center Programs
 - (h) Add Health to Our Years Program

There are 56 senior centers across the State. 60 of the 100 counties have some form of free legal services for older adults through Title III.

- (3) SERVICES TO PREVENT INSTITUTIONALIZATION. Much of the Committee's work over its life has been in trying to shift emphasis from institutional care for the elderly to community services where appropriate. With this

in mind the 1981 General Assembly passed HB 405. For this bill to be adequately implemented, there needed to be a waiver of certain Medicaid regulations. Much of this waiver has been approved and the participating counties are now beginning to proceed with implementation. The Committee anxiously awaits the outcome of these activities.

Also, the State has appropriated more money for adult day care. The State Adult Day Care Fund was created by the General Assembly in 1981 with an appropriation of \$390,000. A total of 361 aging and disabled adults received care under these funds during the nine month period from October to June. In June, 1982, the General Assembly appropriated \$638,720 to the Fund. There are 20 programs that serve 402 people.

The Committee believes that there are certain problems with the long term care in North Carolina which include:

- The need for a more comprehensive long term care policy that emphasizes keeping the person at home as long as possible;
- The need for increased community-based long term care services that matches the level of care with level of need;
- The need for coordinated data collection and analysis, planning, funding, service delivery and evaluation

of services that are client-focused;

- The need for knowledgeable boards and staffs;
- The need for universally applied and enforced effective standards of care;
- The need for the public sector to involve the informal support network and private sector in the provision of long term care;
- The need for families to be able to participate without penalty in a system of cost-sharing;
- The need to redirect present reimbursement patterns that are biased toward institutionalization;
- The need for both provider and consumer education and involvement in the development of long term care resources and programs; and
- The need for an effective system focusing on preventive health practices and preparation for old age.

(4) CONVERSION OF APARTMENT TO CONDOMINIUMS AND ITS EFFECT ON THE ELDERLY. Many local groups and persons who are distressed by the conversion of rental property to condominiums/cooperative ownership are appealing to persons in authority for direction and support in an effort to protect the interests of the older renters. The most popular response has been to seek passage of "emergency" legislation or a short-term moratorium on conversions with the

"emergency" being extended indefinitely. Presumably, the moratorium permits renters, landlords, and politicians an opportunity to ease the situation, but moratoriums generally have not resulted in easing the situation. The Committee was pleased to learn that the General Statutes Commission is well underway in revising the condominium laws passed over 15 years ago. This legislation may well be introduced to the 1983 General Assembly. The Committee will continue to take a strong interest in this subject as State policy and laws are formulated.

(5) EMPLOYMENT OF THE OLDER ADULT

By the beginning of the next century the elderly population will account for at least 18% of the total population in the United States and will, necessarily, be the major work force. In brief, by 2020-2036 there will not be a work force sufficient for our economic needs unless it comes from those aged 60 and over. We are on the threshold of a totally strange phenomenon in the history of this nation--a graying nation, and a graying world.

A name has been given to this new period in the life of the nation. It is the "Age of Gerontocracy", the "ruler-

ship of the elderly". The health of America's economy, the increasing strain on our resources to support Social Security, pensions, and welfare benefits, and the growing problem of older persons to keep up with inflation--all require new policies that will stop discarding older persons as useless or dependent, unproductive and "drop-outs" from the world they helped to make and will still powerfully affect through their increasing numbers, and will cause older persons and their society to create a new image of themselves as an enriching and productive resource, self-sustaining, creative, essential to a nation which they largely brought into being. Such policies will demand vision, imagination, purpose and realistic planning, and the time is NOW.

The excellent study of the economic impact caused by the increasing elderly population, and the evident fact that this resource will be essential to economic vitality is entitled, "OLDER AMERICANS: An Untapped Resource", prepared by the National Committee on Careers for Older Americans. It deals comprehensively and practically with why this great human resource must be tapped, and, equally important, how it can be done. The prestigious committee which compiled this report makes a compelling argument for the immediate recognition of the urgent need to discover, design, and develop an imaginative set of employment policies that seek to promote and gain the benefits which can accrue from longer life.

Aside from the employment aspect of this numerical increase in persons age 60 and over is the resultant impact upon the economy as consumers. Because of their increasing numbers, they will be the major work force, and, thus, the major earners of money. As the major earners, they become the major spenders and, naturally, the focus of the consumer market. Where presently the youth are the target of the consumer market, and are the major purchasers of certain clothing, of disco tapes and records, of certain entertainment features, of certain foods, this will change as the market shifts its focus to older buyers. Thus, both as work force (producers) and as buyers (consumers), the Older American becomes the greatest single force influencing the economy.

The baby boom of the 1946-57 era coupled with the "birth dearth" of the 70's will begin to create a "geriatric echo" about the year 2005, lasting until about 2030 when it peaks. This explosion of gerontocratic situations will cause significant compelling changes in societal values, and it is time now to plan realistically for these changes, with the older people being the catalysts for changes making for progress.

Another vitally important factor must be reckoned with and planned for. Holding a position of hitherto unexplored

and undeveloped power is the older woman. Outliving the male by some 7-8 years, the older woman becomes the majority within the larger majority of older citizens. She will thus dominate both the working force and the consumer market, and the quality of her involvement will determine the quality of our life as a nation.

Consider also that many of the women entering the work force in large numbers in recent years are in their 40's and 50's now. Most of these had not accumulated many pension credits in their own past work or in Social Security entitlement credits to earn meaningful benefits, and they will have to stay at work well into their 60's and 70's. Furthermore, certain private pensions upon which women have depended have certain provisions which, unknowing to them, may leave them unprotected in their most vulnerable years. Throughout many discussions on aging issues in conferences here and abroad, employment has come out as a major concern, linked to income security. This employment for the older worker in the 2000's must not become entrapped in present-day employment policies and programs. For we are looking at an entirely new type of work force--a force full of expertise, knowledge, skills, attitudes, behaviors, but with limited energy levels, and with the older women in the majority. Thus, the two essential factors which must be basic to the design of such employment options are (1)

limitations on energy and strength, and (2) great talent and experience which age has enabled the older worker to accumulate. Join these two factors together in the designing of new practices and work options, and this nation will see a new vitality injected into its static economy, and the result upon the economy is one to dream about with hope and enthusiasm. Such employment offers no threat to the younger worker.

Since this is something never before experienced by this nation, there are few answers to be found for the few questions which we know how to ask. But taking our present job positions as a base, we know that such employment, using the accumulated wisdom and skill of older workers within the limits of their strength and capabilities, can develop in four large areas: Full-time paid employment, part-time paid employment, entrepreneurial initiative in self-employment (a great potential for both the worker and the national economy), and voluntarism as a potential training base which "graduates" those who need and desire it into paid employment. It must be stressed that employment options which use creatively and innovatively the great human resources of the older American for the increased vitality of the economy are yet to be devised. Presently existing employment is devised for the younger worker; to unleash the great potential for productivity

which resides in the hitherto untapped resource of the older citizens, jobs to do that must begin now to be designed and developed. The alternative does not bear thinking of--to have millions of experienced persons sidelined in idleness and unproductive loafing is not only physically and mentally detrimental to the human beings but is a horrendous waste for the nation. Those who need to or wish to work will be a new and welcome addition to an economy which desperately needs them and their varied and various abilities.

We should move now to develop specific objectives for legislative action, both locally, state and federal, related to the following:

1. Pilot programs in cooperation with small businesses, private and public enterprise, to develop and promote new employment opportunities with older or retired workers.

2. Self-employment initiatives which can be especially beneficial to those with hobbies possessing potential market value to the business which the retiree is leaving. This option also offers excellent initiatives for the older woman.

3. Pre-retirement planning, community-based or industry-based, with the possibility of continued employment of the older worker in new investment bringing in financial advantages to the business.

4. Designing at least one "track" in the volunteer arena wherein those who desire and need to work and earn can receive needed training and develop a record of experience under supervisions. Upon "graduation" from this supervised experience into paid employment, the spot vacated is filled with a successor, and the volunteer efforts are not decreased.

An aggressive employment strategy for willing and able older persons should be pursued both in the short-term to enable the elderly to prevent deterioration in their standard of living due to inflation and changes in the systems of income maintenance, and in the long term, to help social and economic systems to accommodate the growing elderly population. Such strategy should include immediate implementation of legislation abolishing mandatory retirement; elimination of Social Security earnings limitation, making of the older worker a taxpayer on earned income as well as a recipient of his/her "earned rights" income; vigorous enforcement of the Age Discrimination in Employment Act; fair treatment of older workers under the Unemployment Compensation Law; equitable treatment of older workers by their private pension plans, with attendant exploration of certain discriminatory provisions relating to vesting, backloading, "widow's gap",

being "integrated out of the system", and divorce; provision of adequate job opportunities and training and placement services through government and local employment programs specifically targeted toward the elderly.

FINDINGS AND RECOMMENDATIONS

The following items are a compilation of those issues which need attention by the 1983 General Assembly:

- (1) CONTINUE THE WORK OF THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON AGING AS BEGUN UNDER RESOLUTION 86 OF THE 1977 SESSION AS AMENDED BY RESOLUTION 106 OF THE 1977 SESSION, SECOND SESSION 1978 BY RESOLUTION 62 OF THE 1979 SESSION LAWS AND BY SENATE JOINT RESOLUTION 39 OF THE 1981 SESSION (SEE APPENDIX B.) It is quite evident to the Committee that more time and effort are needed to adequately define the problems of the aging and propose possible solutions. Even though having made five reports, the Committee recommends that aging needs to be given additional time.
- (2) AMEND STATE LAW SO THAT NURSING HOME BEDS IN HOSPITALS SHALL BE INCLUDED WITHIN THE NURSING HOME PATIENTS' BILL OF RIGHTS. (SEE APPENDIX C) The Nursing Home Patients' Bill of Rights is a result of legislation passed by the 1977 General Assembly. As part of this legislation there was established advisory committees for nursing homes which have been in operation since March 1, 1978. It was the intent that each community

in the State should take a more active role in promoting the interest and well being of persons residing in nursing homes. Each county in North Carolina that has a nursing home is now served by a Nursing Home Advisory Committee. This legislation is getting communities involved with nursing homes, increasing public education and working with patients. The Committee has heard nothing but praise for the concrete results of this legislation.

When the original bill was passed only nursing homes that were free standing, i.e., not a part of a hospital system, were covered. Nursing homes that were in combination with hospitals were not covered. The Committee believes that the original legislation has produced excellent results for both the patients and the nursing homes. Therefore, the time has come to include all nursing homes within the legislation so that all nursing patients and facilities will be treated equally.

- (3) AMEND STATE LAW TO ELIMINATE MANDATORY RETIREMENT AT AGE 70 FOR PERSONS COVERED UNDER THE STATE EMPLOYEES' RETIREMENT SYSTEM. (SEE APPENDIX D) Many people have contended that mandatory retirement is a cruel anachronism in an era when medical advances allow people to remain active and productive. Congress

agreed and so passed the Age Discrimination in Employment Act. At the recommendation of this Committee, the 1979 General Assembly enacted legislation that raised the retirement age for persons covered under the State Employees or Local Government Employees Retirement System from 65 to 70. Under present state statute G.S. 128-27(a) (2) and G.S. 135-5(a) (2), a member in service who attains age 70 shall make application for retirement to be effective no later than the first of July coincidence with or next following the 70th birthday. But upon approval of his employer, any member may continue in service on a year-to-year basis. Therefore, after age 70, it is discretionary with the employer whether to remain on the job. The Committee recommends that G.S. 128-27(a) (2) and G.S. 135-5(a) (2) be deleted which would remove the mandatory clause requiring retirement at age 70 by members of the retirement system.

- (4) AMEND STATE LAW TO ALLOW AN INCOME TAX DEDUCTION FOR AMOUNTS PAID TO MAINTAIN CERTAIN PARENTS AGED 65 OR OVER. (SEE APPENDIX E) The Committee has examined in its meetings the critical need for alternatives to institutionalization. People want to be left in their homes and communities. The State should do

everything within its power to help our older citizens maintain their independence through fostering any family support systems available. The Committee believes that one way to achieve this goal is through the tax system. At present the tax system allows a tax deduction if this person gives money to a charity but it does not allow a deduction if this person gives money to his parent (if not a dependent) to help this parent remain at home. The proposed bill would allow for such a deduction. Although the tax break is not great, it would make a policy statement by the State that this kind of effort made by children to help their parents is just as important as any other charitable contribution. The restrictions on the tax deduction include:

- (1) Amount paid to parents will not exceed \$3,000.
 - (2) The individual does not take the exemption if parent or parents are claimed as a dependent.
 - (3) The parent or parents are not in an institution.
 - (4) The parent's disposable income does not exceed \$9,000.
 - (5) The parent or parents are 65 or older.
 - (6) The parent or parents are North Carolina residents.
- (5) AMEND G.S. 130-9(f) TO MAKE CLEAR WHO WILL REPRESENT THE MEMBERS OF THE NURSING HOME ADVISORY COMMITTEES IN CASES OF LIABILITY ARISING FROM THE EXERCISE OF

THEIR AUTHORITY. (SEE APPENDIX F.) Questions have arisen regarding liability insurance of Nursing Home Advisory Committee members, and whether county governments or the Attorney General may defend them if they are sued because of actions, statements, or reports made by members while performing committee functions.

In an opinion of the Attorney General dated October 25, 1979, it was stated that Committee members were not officers because of language in G.S. 130-9.5(f) that, "Membership on a committee shall not be considered an office as defined in G.S. 128-1 or G.S. 128-1.1."

This provision was intended to exempt Committee members from the law limiting persons to two offices, but it has been read more broadly by the Attorney General.

To correct the problem, the Committee recommends that the language in G.S. 130-9.5(f) be changed so that it be made clear that the Attorney General may represent these Committee members in case of suit. The passage of this bill will negate the chilling effect of the present uncertainty.

- (6) THE NORTH CAROLINA GENERAL ASSEMBLY SHOULD PASS A JOINT RESOLUTION REQUESTING THE GOVERNOR OF NORTH CAROLINA TO CONSIDER THE APPOINTMENT OF ELDERLY CITIZENS TO STATE BOARDS AND COMMISSIONS IN FAIR PROPORTION TO

TO THEIR POPULATION IN THE STATE OF NORTH CAROLINA.

(SEE APPENDIX G) During the past twenty years government and business have placed an increasing emphasis on involving laypersons in policy decisions. Older men and women are uniquely suited to serve on these boards and committees because they have lifelong experience as consumers and members of community groups, and they often have more time to devote to community service than younger persons. When provided with proper support and preparation, their effectiveness on boards and commissions becomes of significant benefit to all. For these reasons the Governor is urged to consider the appointment of elderly citizens to State boards and commissions in equal proportion to their population within the State.

- (7) THE NORTH CAROLINA GENERAL ASSEMBLY SHOULD AMEND G. S. 115C-243 WHICH ALLOWS THE USE OF SCHOOL BUSES BY SENIOR CITIZEN GROUPS. (SEE APPENDIX H).

One of the most severe problems facing many of North Carolina's elderly is transportation. Therefore, the Legislative Research Commission's Committee on Aging recommended to the 1977 General Assembly (Second Session)

that senior citizen groups be allowed to use school buses. This bill was passed as G. S. 115C-243. The statute required the State Board of Education to adopt a uniform schedule of charges which was to be approved by the Advisory Budget Commission. To this date no schedule of charges has been adopted.

The Committee recommends that certain changes be made in the current law. The Committee believes that the use of school buses is an entirely local matter between the local board of education and the elderly citizens within each school district. Therefore, all references in the current law to the State Board of Education and the Advisory Budget Commission should be deleted.

The present statute allows the use of the school bus only in the county where the local board of education is located and the county or counties contiguous. The proposed changes would allow the bus to be used within a 50 mile radius beyond the boundaries of the school district. It would remove the requirement that the bus not be taken outside the State. The present requirement could cause a hardship on those counties on the borders of our State where the larger population center may be in the adjoining state.

- (8) THE NORTH CAROLINA GENERAL ASSEMBLY SHOULD AMEND G. S. 143B-180 and G. S. 143B-181 TO MAKE CERTAIN CHANGES IN THE GOVERNORS ADVISORY COUNCIL ON AGING. (SEE APPENDIX I).

The Committee believes that the Governors Advisory Council should be updated. To this end two new agencies are recommended to be added to the Council--The Community Colleges and the School of Social Work of the University of North Carolina. One position is recommended to be deleted--the Department of Human Resources Nutrition Programs Coordinator since this position no longer exists. These amendments would raise the membership of the Council from 30 to 31.

The Division of Aging also requests changes to conform to the requirements of the Older Americans Act to include:

- minority representation
- low income representation
- knowledge about the Older Americans Act.

Also, a requirement would be added that 17 of the 31 members be over 60.

(9) THE NORTH CAROLINA GENERAL ASSEMBLY SHOULD AMEND THE DOMICILIARY HOME RESIDENT'S BILL OF RIGHTS. (SEE APPENDIX J).

The 1981 General Assembly passed the Domiciliary Home Resident's Bill of Rights with the intent to promote the interests and well-being of the residents of domiciliary homes which include family care homes, homes for the aged and disabled, and group homes for the developmentally

disabled adults. Included in this legislation was a patient's bill of rights and community advisory committees. The advisory committees were to promote the spirit of the bill of rights, community involvement and cooperation with the domiciliary homes to insure quality care for the elderly and disabled. The advisory committees were to be appointed by the county commissioners in each county at their discretion. To date only 30 counties have appointed these advisory committees. Therefore, the Committee believes that a major rewrite needs to be made in the Section of the bill related to the advisory committees.

In the proposed bill the county commissioners would appoint these advisory committees by October 1, 1983. If the appointments are not made by January 1, 1984, the Assistant Secretary of Aging, Department of Human Resources, shall make the appointments. There is a formula for the number of committee members appointed according to the number of facilities in the county with the requirement that one-third come from nomination by the domiciliary home administrators. The Division of Aging is required to provide training for the advisory committees. A complaint investigation process is established.

A P P E N D I C E S

STATE OF NORTH CAROLINA APPENDIX A
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611



1981-1983

LEGISLATIVE RESEARCH COMMISSION MEMBERSHIP

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Representative John T. Church	Senator Carolyn Mathis
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Representative John J. Hunt	Senator Russell Walker
Representative Lara S. Tally	Senator Robert W. Wynne

A JOINT RESOLUTION TO PERMIT THE CONTINUANCE OF THE WORK OF THE LEGISLATIVE RESEARCH COMMISSION'S STUDY ON THE PROBLEMS OF AGING AS BEGUN UNDER RESOLUTION 86 OF THE 1977 SESSION AS AMENDED BY RESOLUTION 106 OF THE 1977 SESSION AND BY RESOLUTION 62 OF THE 1979 SESSION, AND AS REAUTHORIZED BY RESOLUTION 61 OF THE 1981 SESSION.

Whereas, the aging population in North Carolina 60+ is 820,000 and presently constitutes over fourteen percent (14%) of the total population and is increasing three times faster than the State population as a whole; and

Whereas, continued inflation, rising taxes, increasing cost of medical care, inadequate institutional care facilities, insufficient pension income, forced early retirement, and lack of public awareness, have compounded the problems of the elderly; and

Whereas, because these older citizens have contributed man- nificently to the progress and general well being of our State and nation, and it is our concern and desire that their retirement years be a time of fulfillment rather than frustration; and

Whereas, the Legislative Research Commission Study Committee on the Problems of Aging, having made five reports, recommends that aging needs be given additional study time; Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission, as structured by G.S. 120-30.10 et seq., may continue the study of the entire range of problems and needs of the older adults of this State and to make specific recommendations to the General Assembly on how these problems can be satisfactorily solved and met by legislative action which is deemed necessary and appropriate. In its deliberations, the commission may examine national

trends and programs in other states as well as programs and priorities in North Carolina. For purposes of this study, "older adult" is defined as every person who is 60 years of age or older.

Sec. 2. The membership of the Committee on Aging of the Legislative Research Commission shall consist of ten members to be appointed as follows: three senators appointed by the President Pro Tempore, three representatives appointed by the Speaker, two persons of sixty years of age or older who are not members of the General Assembly, appointed by the President Pro Tempore, and two persons of sixty years of age or who are not members of the General Assembly, appointed by the Speaker. The Commission may report to the 1985 General Assembly and may submit an interim report to the 1983 General Assembly (Second Session 1984).

Sec. 3. This resolution is effective upon ratification.

A BILL TO BE ENTITLED

AN ACT TO SUBJECT NURSING HOME BEDS IN HOSPITALS TO THE NURSING HOME PATIENTS BILL OF RIGHTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-265(b) is amended by adding the following new language immediately before the period:

", and also means a nursing home operated by a hospital which is licensed under Article 13A of Chapter 131 of the General Statutes."

Sec. 2. G.S. 130-264 is amended by adding the following new language immediately before the period at the end of the first sentence:

", and patients in a nursing home operated by a hospital which is licensed under Article 13A of Chapter 131 of the General Statutes."

Sec. 3. G.S. 130-274 is amended by redesignating the existing section as subsection (a) and adding a new subsection:

(b) In the case of a nursing home operated by a hospital which is licensed under Article 13A of Chapter 131 of the General Statutes, when the Department of Human Resources finds that there has been a substantial failure to comply with the provisions of this article, it may issue an order preventing the continued operation of the home.

Such order shall be effected by mailing to the hospital by registered or certified mail, or by personal service of, a notice setting forth the particular reasons for such action. Such order shall become effective 20 days after the mailing of the notice, unless the hospital, within such 20-day period, shall give written notice to the Department of Human Resources requesting a hearing, in which case the order shall be deemed to be suspended. If a hearing has been requested, the hospital shall be given a prompt and fair hearing pursuant to the Administrative Procedure Act. At any time at or prior to the hearing, The Department of Human Resources may rescind the order upon being satisfied that the reasons for the order have been or will be removed."

Sec. 4. This act shall become effective January 1, 1983.

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE MANDATORY RETIREMENT AT AGE 70 FOR PERSONS
COVERED UNDER THE STATE EMPLOYEES OR LOCAL GOVERNMENT EMPLOYEES
RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 128-27(a)(2) and G.S. 135-5(a)(2) are
repealed.

Sec. 2. This act shall become effective January 1, 1983.

A BILL TO BE ENTITLED
AN ACT TO ALLOW AN INCOME TAX DEDUCTION FOR AMOUNTS PAID TO
MAINTAIN CERTAIN PARENTS AGED 65 OR OVER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-147 is amended by adding a new subsection to read:

"(28) Amounts paid, not to exceed three thousand dollars (\$3,000), for the maintenance and care of the individual's parent or parents.

If the individual makes payments for the maintenance and care of one parent, the individual may take this deduction only if:

- a. the individual does not take an exemption for the parent under G.S. 105-149(a)(5);
- b. the parent is not in a public or private institution;
- c. the parent's disposable income, as defined in G.S. 105-277.1(b)(2), does not exceed nine thousand dollars (\$9,000);
- d. the parent is aged 65 or older; and
- e. the parent is a North Carolina resident.

If the individual makes payments for the maintenance and care of both parents, the individual may take this deduction only if:

- a. the individual does not take an exemption for either parent under G.S. 105-149(a) (5);
- b. neither parent is in a public or private institution;
- c. the parents' combined disposable income, as defined in G.S. 105-277.1(b) (2), does not exceed nine thousand dollars (\$9,000);
- d. at least one parent is aged 65 or over;
and
- e. both parents are North Carolina residents."

Sec. 2. This act is effective for taxable years beginning on and after January 1, 1982.

A BILL TO BE ENTITLED
AN ACT TO PROVIDE THAT MEMBERS OF NURSING HOME COMMUNITY ADVISORY
COMMITTEE MEMBERS MAY BE DEFENDED PURSUANT TO CHAPTER 143 OF THE
GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-9.5(f) is amended by adding the
following new language immediately after the third sentence:

"Provided, however, that members shall be afforded the benefits
of Article 31A of Chapter 143 of the General Statutes."

Sec. 2. This act is effective upon ratification.

A JOINT RESOLUTION

REQUESTING THAT THE GOVERNOR OF NORTH CAROLINA CONSIDER THE APPOINTMENT OF ELDERLY CITIZENS TO STATE BOARDS AND COMMISSIONS IN FAIR PROPORTION TO THEIR POPULATION WITH THE STATE OF NORTH CAROLINA.

WHEREAS, the elderly population of North Carolina is approximately 820,000 persons, constituting approximately fourteen percent of the state's total population; and

WHEREAS, the elderly population of North Carolina is comprised of men and women who have a wide variety of talent and experience in various fields of endeavor; and

WHEREAS, these citizens can make a greater contribution to the governing of North Carolina increased membership on the various commissions and boards whose members are appointed by the governor; and

WHEREAS, elderly citizens are eager to serve on these commissions and boards;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES, THE SENATE CONCURRING:

Section 1. The General Assembly urges the governor of North Carolina to consider the appointment of elderly citizens to state boards and commissions in equal proportion to their population within the state.

Sec. 2. This resolution is effective upon ratification.

A BILL TO BE ENTITLED AN ACT CONCERNING USE OF SCHOOL BUSES
BY SENIOR CITIZENS GROUPS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-243(e) is rewritten to read:

"(e) A bus operating under the provisions of this section may operate any where within the school administrative unit and any where within 50 miles of the boundary of the unit, but may not operate beyond that point."

Sec. 2. G.S. 115C-243(f) is repealed.

Sec. 3. This act is effective upon ratification.

A BILL TO BE ENTITLED

AN ACT TO MAKE CERTAIN CHANGES IN THE GOVERNOR'S ADVISORY COUNCIL ON AGING.

The General Assembly of North Carolina enacts:

Section 1. G. S. 143B-180 is amended by inserting immediately before the word "Secretary" wherever it appears the phrase "the Governor and".

Section 2. G. S. 143B-181 is amended by rewriting the first two paragraphs to read:

"The Governor's Advisory Council on Aging of the Department of Human Resources shall consist of 31 members, 27 members to be appointed by the Governor, two members to be appointed by the Lieutenant Governor, and two members to be appointed by the Speaker of the House of Representatives. The composition of the Council shall be as follows: one representative of the Department of Administration; one representative of the Department of Cultural Resources; one representative of the Employment Security Commission; one representative of the Teachers' and State Employees' Retirement System; one representative of the

Commissioner of Labor; one representative of the Department of Public Education; one representative of the Department of Natural Resources and Community Development; one representative of the Department of Community Colleges; one representative of the School of Public Health of the University of North Carolina; one representative of the School of Social Work of the University of North Carolina; one representative of the Agricultural Extension Service of North Carolina State University; one representative of the collective body of the Medical Society of North Carolina; and 19 members at large. The at-large members shall be citizens who are knowledgeable about services supported through the Older Americans Act of 1965, as amended, and shall include persons with greatest economic or social need, minority older persons, and participants in programs under the Older Americans Act of 1965, as amended. The Governor shall appoint 15 members at large who meet these qualifications and are sixty years of age or older. The four remaining members at large, two of whom shall be appointed

by the Lieutenant Governor and two of whom shall be appointed by the Speaker of the House of Representatives, shall be broadly representative of the major private agencies and organizations in the State who are experienced in or have demonstrated particular interest in the special concerns of older persons. At least one of each of the at-large appointments of the Lieutenant Governor, the Speaker of the House of Representatives shall be persons sixty years of age or older. The Council shall meet at least quarterly.

Members at large shall be appointed for four-year terms and until their successors are appointed and qualify. Ad interim appointments shall be for the balance of the unexpired term."

Section 3. This act is effective upon ratification.

A BILL TO BE ENTITLED
AN ACT TO AMEND DOMICILIARY HOME COMMUNITY ADVISORY COMMITTEES

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 131D of the General Statutes is amended by re-writing G. S. 131D-31 to read:

"(a) Statement of Purpose. -- It is the intention of the General Assembly that community advisory committees work to maintain the intent of the Domiciliary Home Residents' Bill of Rights within the licensed domiciliary homes in this State. It is the further intent of the General Assembly that the committees promote community involvement and cooperation with domiciliary homes to ensure quality care for the elderly and disabled adults.

(b) Establishment and Appointment of Committees. -- (1) A community advisory committee shall be established in each county which has at least one licensed domiciliary home, shall serve all the homes in the county, and shall work with each of these homes for the best interests of the residents. In a county which has one, two, or three homes for the aged and disabled, the committee shall have five members. (2) In a county with four or more homes for the

aged and disabled, the committee shall have one additional member for each home for the aged and disabled in excess of three. In each county with four or more homes for the aged and disabled, the committee shall establish a subcommittee of no more than five members and no fewer than three members from the committee for each domiciliary home in the county. Each member must serve on at least one subcommittee. (3) In counties with no homes for the aged and disabled, the committee shall have five members. (4)

The boards of county commissioners are encouraged to appoint the Domiciliary Home Community Advisory Committees. Of the members, a minority (not less than one-third, but as close to one-third as possible) must be chosen from among persons nominated by a majority of the chief administrators of domiciliary homes in the county. If the domiciliary home administrators fail to make a nomination within 45 days after written notification has been sent to them requesting a nomination, such appointments may be made without nominations. If the county commissioners fail to appoint members to a committee by October 1, 1983, the appointments shall be made by the Assistant

Secretary on Aging, Department of Human Resources, no sooner than 45 days after nominations have been requested from the domiciliary home administrators but no later than January 1, 1984.

(c) Joint Nursing and Domiciliary Home Community Advisory Committees. -- Appointment to the Nursing Home Community Advisory Committees shall preclude appointment to the Domiciliary Home Community Advisory Committees except where written approval to combine these committees is obtained from the Assistant Secretary on Aging, Department of Human Resources. Where such approval is obtained, the Joint Nursing and Domiciliary Home Community Advisory Committee shall have the membership required of Nursing Home Community Advisory Committees and one additional member for each home for the aged and disabled present in the county. In counties with no homes for the aged and disabled, there shall be one additional member for every four domiciliary homes in the county. Each member shall exercise the statutory rights and responsibilities of both Nursing Home Committees and Domiciliary Home Committees. In making appointments to this joint committee, the county commissioners

shall solicit nominations from both nursing and domiciliary home administrators for the appointment of approximately (but no more than) one third of the members.

(d) Terms of Office. -- Each committee member shall serve an initial term of one year. Any person reappointed to a second or subsequent term in the same county shall serve a two or three year term at the county commissioners' discretion to ensure staggered terms of office.

(e) Vacancies. -- Any vacancy shall be filled by appointment of a person for a one year term. If the county commissioners fail to fill a vacancy, the vacancy may be filled by the Assistant Secretary on Aging, Department of Human Resources no sooner than 45 days after the commissioners have been notified of the appointment or vacancy.

(f) Officers. -- The committee shall elect from its members a chair, to serve a one-year term.

(g) Minimum Qualifications for Appointment. -- Each member must be a resident of the county which the committee serves. No person

or immediate family member of a person with a financial interest in a home served by the committee, or employee or governing board member of a home served by the committee, or immediate family member of a resident in a home served by the committee may be a member of that committee. Any county commissioner who is appointed to the committee shall be deemed to be serving on the committee in an ex officio capacity. Members of the committee shall serve without compensation, but may be reimbursed for actual expenses incurred by them in the performance of their duties. The names of the committee members and the date of expiration of their terms shall be filed with the Division of Aging, Department of Human Resources.

(h) The Division of Aging, Department of Human Resources, shall develop training materials, which shall be distributed to each committee member. Each committee member must receive training as specified by the Division of Aging prior to exercising any power under G. S. 131D-32. The Division of Aging, Department of Human Resources, shall provide the committees with information, guidelines, training, and consultation to direct them in the performance of their duties.

Section 2. G. S. 131D-32 is re-written to read as follows:

"(a) The committee shall serve as the nucleus for increased community involvement with domiciliary homes and their residents.

(b) The committee shall promote community education and awareness of the needs of aging and disabled persons who reside in domiciliary homes, and shall work towards keeping the public informed about aspects of long term care and the operation of domiciliary homes in North Carolina.

(c) The committee shall develop and recruit volunteer resources to enhance the quality of life for domiciliary home residents.

(d) The committee shall establish linkages with the domiciliary home administrators and the county Department of Social Services for the purpose of maintaining the intent of the domiciliary home residents' Bill of Rights.

(e) Each committee shall apprise itself of the general conditions under which the persons are residing in the homes, and shall work for the best interests of the persons in the homes. This may include assisting persons who have grievances with the home and facilitating the resolution of grievances at the local level. The names of all complaining persons and the names of residents involved in the complaint shall remain confidential unless written permission

is given for disclosure. The committee shall notify the enforcement agency of all verified violations of the Domiciliary Home Residents' Bill of Rights.

(f) The committee or subcommittee may communicate through the committee chair with the Department of Human Resources, the county Department of Social Services, or any other agency in relation to the interest of any resident.

(g) Each committee shall quarterly visit the homes for the aged and disabled it serves. For each official quarterly visit, a majority of the committee members shall be present. A minimum of three members of the committee shall make at least one visit annually to each family care home and group home for developmentally disabled adults present in the county. In addition, each committee may visit the domiciliary homes it serves whenever it deems it necessary to carry out its duties. In counties with subcommittees, the subcommittee assigned to a home shall perform the duties of the committee under this subsection, and a majority of the subcommittee members must be present for any visit.

(h) The individual members of the committee shall have the right between 10:00 a.m. and 8:00 p.m. to enter the facility the committee serves in order to carry out the members' responsibilities.

In a county where subcommittees have been established, this right of access shall be limited to members of the subcommittee which serves that home. A majority of the committee or subcommittee members must be present to enter the facility at other hours. Before entering any domiciliary home, the committee or members of the committee shall identify themselves to the person present at the facility who is in charge of the facility at that time.

(i) The committee shall prepare reports as required by the Department of Human Resources containing an appraisal of the problems of domiciliary care facilities as well as issues affecting long-term care in general. Copies of the report shall be sent to the board of county commissioners, county department of social services and the Division of Aging.

Section 3. This act is effective upon ratification.

